



Christine O. Gregoire

## **ATTORNEY GENERAL OF WASHINGTON**

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FOR IMMEDIATE RELEASE

February 14, 2003

### **State to Seek U.S. Supreme Court Review of Scholarship Case**

**OLYMPIA** – The state will ask the U.S. Supreme Court to review a federal-court decision that would compel the state to make taxpayer-funded scholarships available to college students who pursue degrees in theology, Attorney General Christine Gregoire announced today.

The Attorney General's Office will argue that the First Amendment of the U.S. Constitution does not require the state to make scholarships available to divinity students when the state also provides them to students engaged in non-religious studies. Washington's Constitution and a state statute prohibit the use of public money to fund religious instruction.

"The free exercise of religion is one of the most important rights guaranteed to American citizens, but each state should have the right to decide whether its taxpayers will be required to pay for a student's religious instruction," Gregoire said.

The issue that the Supreme Court will be asked to decide arises from a lawsuit filed in 2000 by divinity student Joshua Davey. Davey was ineligible for a state-funded Promise Scholarship because of the state prohibitions on use of public money to fund religious instruction. He sued in U.S. District Court, claiming that the denial violated his First Amendment right to freely exercise his religious beliefs.

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## 2-2-2 scholarship

The District Court ruled in the state's favor, but in a 2-1 decision last July, a panel of the 9<sup>th</sup> U.S. Circuit Court of Appeals overturned that decision. The appeals court said Washington's laws violated Davey's right under the First Amendment to freely exercise his religion.

The state has until Feb. 24 to file the petition for a writ of certiorari asking the Supreme Court to review the 9<sup>th</sup> Circuit decision. Defendants in the case are Gov. Gary Locke and members and staff of the Higher Education Coordinating Board (HECB), which oversees the Promise Scholarship program.

"Our state law has been clear on separating state funds from religious instruction, and that law now is in question," said Marc Gaspard, executive director of the HECB. "We look to the U.S. Supreme Court to reconcile our state Constitution and state law, which prohibits the use of tax-supported funds for religious instruction, with the U.S. Constitution."

The state today will file papers asking the U.S. District Court in Seattle to delay implementation of the 9<sup>th</sup> Circuit's decision in the Davey case until the Supreme Court decides whether it will review the Court of Appeals decision. If the Supreme Court agrees to the review, oral argument probably would be held next fall.

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For a background paper and additional information on the Davey case, visit the Attorney General's website at <http://www.wa.gov/ago> and click on the Court Cases link

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